IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 961 OF 2006.

Raghunath Rama Dhane. ... Appellant.
Versus.
Prakash Shankar Dhane & others. ... Respondents.

Shri Pratap J.Shinde for the Appellant.

Shri V.S.Talkute for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 12th December, 2007.

P.C.:

1. Heard the learned Advocate for the Appellant. The Second Appeal is admitted on the following substantial questions of law:

i) Whether the Appellate Court committed an error by ignoring that as there was no evidence on record to show that the decree passed in Regular Civil Suit No.564 of 1989 was executed and parties were placed in separate possession of their respective shares, the third Defendant was not entitled to sell any specific portion of the suit property in favour of the 1st and 2nd Defendants?

ii) Whether the Appellate Court completely overlooked the fact that the sale deed executed by the Defendant No.3 will not bind the Plaintiff and at highest it will bind the

undivided share of the Defendant No.3?

2. Shri Talkute waives service for Respondent no.1. Printing is dispensed with. Private paper book to be filed within a period of one year from today, failing which the Appeal will stand dismissed for non-prosecution without further reference to the Court.

Judge.